

# Weekly Summary of Cases National Labor Relations Board

Week of October 12-15, 2010, W-3282

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#### **Summarized Board Decisions**

### Decisions in cases involving prior rulings by two-member Board

The following cases involve prior rulings by the two-member Board, whose authority to act was rejected by the U.S. Supreme Court decision in *New Process Steel, LP* (June 17, 2010). The new decisions summarized here were reached by a three-member panel of the Board or by the full Board.

*Allied Mechanical Services, Inc.* (7-CA-40907, 41390; 356 NLRB No. 1) Kalamazoo, MI, October 14, 2010. [HTML] [PDF]

The Board denied the Respondent's motion for reconsideration of the Board's September 28, 2007 Supplemental Decision and Order. In that decision, the Board granted the General Counsel's and union's motions for reconsideration and found that the Respondent violated the Act by withdrawing recognition from Local 357, revising its job application procedure without notice to Local 357, and failing to provide a response to Local 357's information request. In denying the Respondent's motion for reconsideration, the Board rejected the Respondent's contentions that the Board erred in retroactively applying its decision in *Raymond F. Kravis Center for the Performing Arts*, 351 NLRB 143 (2007), in finding that the parties had a Section 9(a) relationship, and in ordering the Respondent to recognize and bargain with the union.

Charges filed by Plumbers and Pipefitters Local 357, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL-CIO. Chairman Liebman and Members Pearce and Hayes participated.

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**Palmer House Hilton** (13-CA-44223, 13-CB-18772; 356 NLRB No. 2) Chicago, IL, October 12, 2010. [HTML] [PDF]

The Board adopted the administrative law judge's finding that the respondent-union violated the Act by requesting that the employer discharge the charging party for failing to pay union membership dues pursuant to the relevant union-security clause. The Board found that by accepting a portion of the charging party's back dues and allowing him to enter into a payment plan for the balance, the union waived its right to enforce the union-security agreement and have the employer discharge the charging party for nonpayment of dues. The Board also adopted the judge's finding that the respondent-employer violated the Act by discharging the charging party

at the union's request despite having reasonable grounds for believing that the discharge request was unlawful.

Charges filed by an Individual. Administrative Law Judge Keltner W. Locke issued his decision June 27, 2008. Chairman Liebman and Members Pearce and Hayes participated.

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*Laurel Bay Health & Rehabilitation Center* (22-CA-27192, et al.; 356 NLRB No. 3) Keansburg, NJ, October 15, 2010. [HTML] [PDF]

The Board adopted the administrative law judge's findings, based on a modified rationale, that the Respondent violated the Act by prematurely declaring impasse and unilaterally implementing certain changes to terms and conditions of employment. The Board further adopted the judge's findings that the Respondent violated the Act by: 1) refusing to supply information requested by the union, 2) failing to meet with the union since October 4, 2005 for the purpose of negotiating a successor collective-bargaining agreement, and 3) unilaterally eliminating a transportation benefit providing bus or van service to and from work for unit employees.

Charges filed by SEIU 1199 New Jersey Health Care Union. Administrative Law Judge Steven Davis issued his decision June 8, 2007. Chairman Liebman and Members Becker and Hayes participated.

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## **Unpublished Board Decisions in Representation Cases**

American Red Cross, Carolinas Blood Services Region (11-RC-6741) Wilmington, NC, October 14, 2010. Order denying employer's request for review of the Regional Director's decision and direction of election. Petitioner – Teamsters Local 391, affiliated with the International Brotherhood of Teamsters. Chairman Liebman and Members Becker and Hayes participated.

*Harper's Magazine Foundation* (2-RC-23523) New York, NY, October 13, 2010. Order denying employer's request for review of the Acting Regional Director's decision and direction of election. Petitioner – Local 2110, Technical, Office and Professional Workers, UAW, AFL-CIO. Chairman Liebman and Members Becker and Hayes participated.

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## **Decisions of Administrative Law Judges**

*SK USA Cleaners, Inc.* (22-CA-29291; JD(NY)-41-10) Garfield, NJ. Charge filed by International Union of Journeymen and Allied Trades, Local 947. Administrative Law Judge Steven Davis issued his decision October 13, 2010. [HTML] [PDF]

*Pleasant Travel Services, Inc. d/b/a Royal Kona Resort* (37-CA-7806, et al.; JD(SF)-38-10) Honolulu, HI. Charges filed by UNITE HERE! Local 5. Administrative Law Judge William L. Schmidt issued his Corrections Order October 13, 2010. [HTML] [PDF]

*Trinity Protection Services, Inc.* (20-CA-34660, et al.; JD(SF)-40-10) Sacramento, CA. Charges filed by Individuals. Administrative Law Judge James M. Kennedy issued his decision October 14, 2010. [HTML] [PDF]

*United Kiser Services, LLC* (30-CA-18129 (E); JD-59-10) Norway, MI. Charge filed by Northern Wisconsin Regional Council of Carpenters. Administrative Law Judge Bruce D. Rosenstein issued his supplemental decision and order October 15, 2010. [HTML] [PDF]

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